APPENDIX

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

SAN ANTONIO METROPOLITAN TRANSIT AUTHORITY,

Plaintiff,

and

AMERICAN PUBLIC TRANSIT ASSOCIATION,

Plaintiff-Intervenor,

v.

THE HONORABLE RAYMOND J. DONOVAN, SECRETARY OF LABOR OF THE UNITED STATES,

Defendant,

and

JOE G. GARCIA,

Defendant-Intervenor.

Civil Action No. SA 79 CA 457

JUDGMENT

This cause was heard by this Court on September 10, 1981, upon motions for summary judgment filed by San Antonio Metropolitan Transit Authority and American Public Transit Association and motions for partial summary judgment filed by the Secretary of Labor and Joe G. Garcia. The Court has carefully considered the motions, briefs, affidavits and other material on file in this cause and the arguments of counsel and finds that there is no genuine issue as to any material fact in this cause

and that the Plaintiff and Plaintiff-Intervenor are entitled to a judgment as a matter of law. The Court accordingly finds that the motions of San Antonio Metropolitan Transit Authority and American Public Transit Association for summary judgment should be granted and that the motions for partial summary judgment of the Secretary of Labor and Joe G. Garcia should be denied.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED and DECREED.

1. That the motions for summary judgment of Plaintiff San Antonio Metropolitan Transit Authority and Plaintiff-Intervenor American Public Transit Association are hereby granted;

2. That local public mass transit systems (including San Antonio Metropolitan Transit Authority) constitute integral operations in areas of traditional governmental functions under the decision of the United States Supreme Court in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976) and that the Secretary of Labor of the United States cannot apply or seek to enforce the minimum wage and overtime pay provisions of the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*, against local public mass transit systems in the United States, including San Antonio Metropolitan Transit Authority;

3. That the "Final Interpretation" issued by the Wage and Hour Division of the United States Department of Labor on December 21, 1979 (44 Federal Register 75628-75630) is null and void insofar as it lists local public mass transit systems as not being integral operations in areas

of traditional governmental functions under *National League of Cities* v. *Usery, supra;*

4. That the motions for partial summary judgment filed by the Secretary of Labor and Joe G. Garcia are hereby denied;

5. That the counterclaim filed by the Secretary of Labor on February 8, 1980 is hereby dismissed with prejudice; and

6. That the Defendant Secretary of Labor and Defendant-Intervenor Joe G. Garcia pay all costs incurred in this action by Plaintiff and Plaintiff-Intervenor.

SIGNED this 17th day of November, 1981.

FRED SHANNON,
United States District Judge.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SAN ANTONIO METROPOLITAN TRANSIT AUTHORITY, *Plaintiff,* *and* AMERICAN PUBLIC TRANSIT ASSOCIATION, *Plaintiff-Intervenor,* v. THE HONORABLE RAYMOND J. DONOVAN, SECRETARY OF LABOR OF THE UNITED STATES, *Defendant,* *and* JOE G. GARCIA, *Defendant-Intervenor.*	Civil Action No. SA 79 CA 457

NOTICE OF APPEAL

Defendant-Intervenor, Joe G. Garcia appeals to the United States Supreme Court from the judgment in the

above-captioned case, dated November 17, 1981, pursuant to 28 U.S.C. § 1252 and 28 U.S.C. § 2101(a).

Respectfully submitted,

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